



\$JFW

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

ADAMS ET AL.

Serial No.: 10/773,045

Filed: 2/5/04

Confirmation No.: 7401

Atty. File No.: 41992-00680

For: "STIR-FRICTION HOT WORKING
CONTROL SYSTEM"

) Group Art Unit: 1616

)

) Examiner: Unknown

)

) PETITION REGARDING OMITTED

) DRAWING IN PATENT APPLICATION

) PAPERS/AMENDMENT

)

<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO ASSISTANT COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450 ON <u>5/25/04</u></p> <p style="text-align: center;">MARSH FISCHMANN & BREYFOGLE, LLP</p> <p>BY: <u><i>Ruth E. Ostgulen</i></u></p>
--

Assistant Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

Applicant submits this Petition/Amendment to address the comments provided by the Patent Office in a communication having a mailing date of May 6, 2004. A check in the amount of \$130 is enclosed to cover the required petition fee due for responding to the May 6, 2004 communication. Please charge any other fees that may be due for responding to the May 6, 2004 communication to Deposit Account No. 50-1419.

Please amend the above-identified patent application in the manner set forth herein and in accordance with the amendment of 37 C.F.R. §1.121 that went into effect on July 30, 2003:

06/01/2004 SDENBOB1 00000121 10773045

01 FC:1460

130.00 0P

AMENDMENTS TO THE DRAWINGS

Please amend the sheet 3 of the drawings to add a "Fig. 5a" legend thereto, as indicated on the enclosed copy thereof (Appendix A) that is labeled "Annotated Marked-up Drawings." Also enclosed (Appendix B) is a replacement sheet that reflects this amendment and that is labeled "Replacement Sheet."

REMARKS

The May 6, 2004 communication, (copy enclosed as Appendix C) takes the position that Figure 5a was missing from the patent application that was filed with the Patent Office. Figure 5a was included on sheet 3 of the drawings that were included with the patent application at the time of its filing, although the "Figure 5a" legend was inadvertently omitted. The above-noted amendment adds the "Fig. 5a" legend to sheet 3 of the drawings.

The undersigned offers the following statement of facts in support of this Petition that apparently is required to respond to the May 6, 2004 communication:

1. The above-captioned patent application was filed on February 5, 2004.
2. The Utility Patent Application Transmittal (copy enclosed as Appendix D) for the above-captioned patent application indicates that 6 sheets of drawings were included with the filing.
3. The May 6, 2004 Filing Receipt (copy enclosed as Appendix E) for the above-captioned patent application indicates that 6 sheets of drawings were received by the Patent Office.
4. Sheet 3 of the drawings (copy enclosed as Appendix F) filed with the above-captioned patent application included the subject matter of Figure 5a, but not the "Figure 5a" legend.
5. The "Fig. 5a" legend is included on sheet 3 of the drawings (copy enclosed as Appendix G) of the ultimate parent application, namely U. S. Patent No. 6,421,578, in the same manner as the above-noted proposed amendment of sheet 3 of the drawings (copy enclosed as Appendix A) for the above-captioned patent application.
6. Based upon the foregoing, Figure 5a was in fact included with the filing of the above-captioned patent application. Only the legend for Figure 5a was omitted. Therefore, Figure

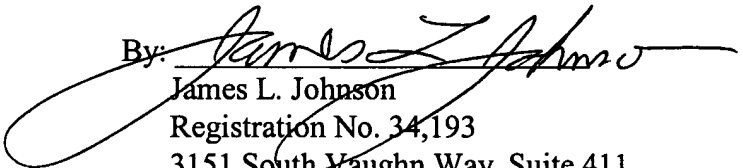
5a is entitled to the filing date of the above-captioned patent application, and the enclosed petition fee of \$130.00 should be refunded to Applicant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By:


James L. Johnson
Registration No. 34,193
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(701) 293-7680

Date:

5/25/04

Appendix A



Fig. 5a

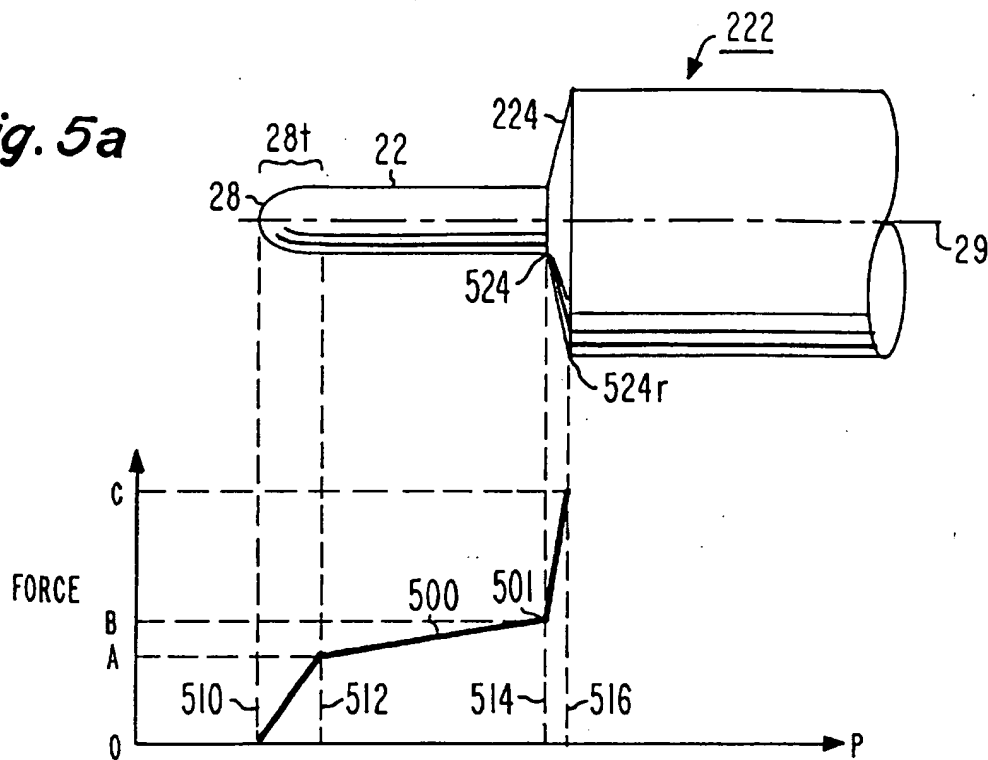


Fig. 5b

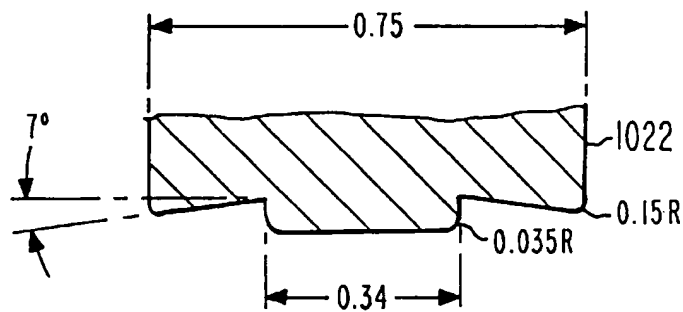


Fig. 10

Appendix B



Fig. 5a

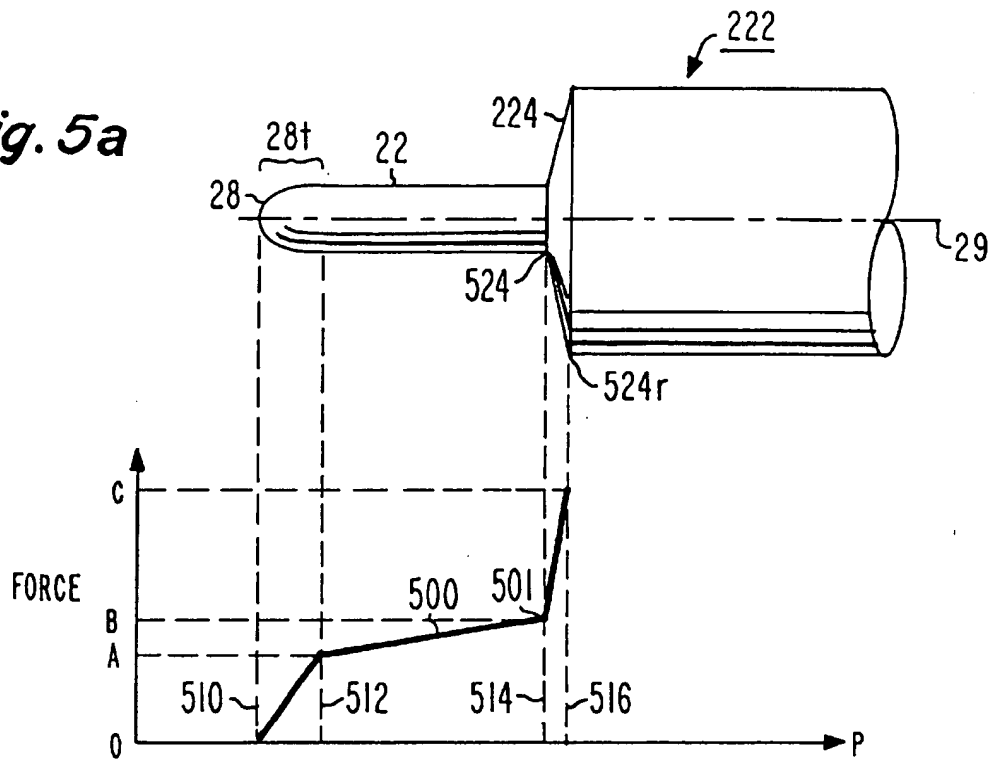


Fig. 5b

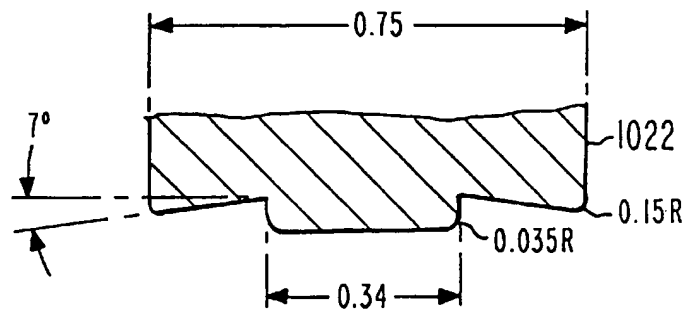


Fig. 10

Appendix C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/773,045	02/05/2004	Glynn Paul Adams	41992-00680

25231
MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

CONFIRMATION NO. 7401

FORMALITIES LETTER



OC000000012533502

Date Mailed: 05/06/2004

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Figure(s) 5a described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing date.

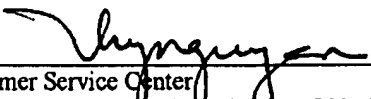
III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any

omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
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A copy of this notice MUST be returned with the reply.



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Appendix D

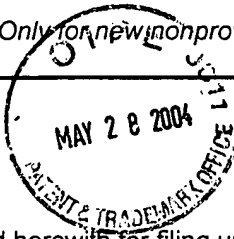
UTILITY PATENT APPLICATION TRANSMITTAL

(Large Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
41992-00680

Total Pages in this Submission



TO THE COMMISSIONER FOR PATENTS

Mail Stop Patent Application
P.O. Box 1450
Alexandria, VA 22313-1450

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

STIR-FRICTION HOT WORKING CONTROL SYSTEM

and invented by:

GLYNN P. ADAMS of 102 EPSOM, SLIDELL, LA 70461
ZACHARY S. LOFTUS of 2534 PALMER AVE., NEW ORLEANS, LA 70118
JOSEPH N. MCCORMAC of 118 SAMANTHA RD., HUNTSVILLE, AL 35806
RICHARD A. VENABLE of 395 WALKER RD., GRANT, AL 35747

If a **CONTINUATION APPLICATION**, check appropriate box and supply the requisite information:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 10/193,943

Which is a:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/249,680

Which is a:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____

Enclosed are:

Application Elements

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having 16 pages and including the following:
 - a. ☒ Descriptive Title of the Invention
 - b. ☐ Cross References to Related Applications (if applicable)
 - c. ☐ Statement Regarding Federally-sponsored Research/Development (if applicable)
 - d. ☐ Reference to Sequence Listing, a Table, or a Computer Program Listing Appendix
 - e. ☒ Background of the Invention
 - f. ☒ Brief Summary of the Invention
 - g. ☒ Brief Description of the Drawings (if filed)
 - h. ☒ Detailed Description
 - i. ☒ Claim(s) as Classified Below
 - j. ☒ Abstract of the Disclosure

UTILITY PATENT APPLICATION TRANSMITTAL (Large Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
41992-00680

Total Pages in this Submission

Application Elements (Continued)

3. ☒ Drawing(s) (when necessary as prescribed by 35 USC 113)
- a. ☒ Formal Number of Sheets 6
- b. ☐ Informal Number of Sheets _____
4. ☒ Oath or Declaration
- a. ☐ Newly executed (original or copy) ☐ Unexecuted
- b. ☒ Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional application only)
- c. ☐ With Power of Attorney ☐ Without Power of Attorney
- d. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s) named in the prior application,
see 37 C.F.R. 1.63(d)(2) and 1.33(b).
5. ☐ Incorporation By Reference (usable if Box 4b is checked)
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
6. ☐ CD ROM or CD-R in duplicate, large table or Computer Program (Appendix)
7. ☐ Application Data Sheet (See 37 CFR 1.76)
8. ☐ Nucleotide and/or Amino Acid Sequence Submission (if applicable, all must be included)
- a. ☐ Computer Readable Form (CRF)
- b. ☐ Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ Paper
- c. ☐ Statement(s) Verifying Identical Paper and Computer Readable Copy

Accompanying Application Parts

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(B) Statement (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☒ Certificate of Mailing
- ☐ First Class ☒ Express Mail (Specify Label No.): EV386663546US

UTILITY PATENT APPLICATION TRANSMITTAL
(Large Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
41992-00680

Total Pages in this Submission

Accompanying Application Parts (Continued)

17. ☐ Additional Enclosures *(please identify below):*

--

Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)

18. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

Warning

An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

UTILITY PATENT APPLICATION TRANSMITTAL
(Large Entity)

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Docket No.
41992-00680

Total Pages in this Submission

Fee Calculation and Transmittal

CLAIMS AS FILED

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	9	- 20 =	0	x \$18.00	\$0.00
Indep. Claims	2	- 3 =	0	x \$86.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$770.00
OTHER FEE (specify purpose) _____					\$0.00
TOTAL FILING FEE					\$770.00

- ☒ A check in the amount of **\$770.00** to cover the filing fee is enclosed.
- ☒ The Director is hereby authorized to charge and credit Deposit Account No. **50-1419** as described below.
- ☐ Charge the amount of _____ as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Dated:

2/5/04

Signature

JAMES L. JOHNSON
REG. NO. 34,193
MARSH FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY, SUITE 411
AURORA, CO 80014
(701) 293-7680
CUSTOMER NO. 25,231

cc:

Appendix E



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/773,045	02/05/2004	1616	770	41992-00680	6	9	2

25231
MARSH, FISCHMANN & BREYFOGLE LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

RECEIVED

MAY 10 2004

MARSH FISCHMANN & BREYFOGLE LLP

CONFIRMATION NO. 7401

FILING RECEIPT

OC000000012533501

Date Mailed: 05/06/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Glynn Paul Adams, Slidell, LA;
Zachary Sean Samuel Loftus, New Orleans, LA;
Joseph Nathan McCormac, Huntsville, AL;
Richard Allen Venable, Grant, AL;

Domestic Priority data as claimed by applicant

This application is a CON of 10/193,943 07/12/2002 ABN
which is a CON of 09/249,680 02/12/1999 PAT 6,421,578

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2004

Projected Publication Date: To Be Determined - pending completion of Omitted Items

Non-Publication Request: No

Early Publication Request: No

Title

Stir-friction hot working control system

Preliminary Class

424

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Appendix F

3/6

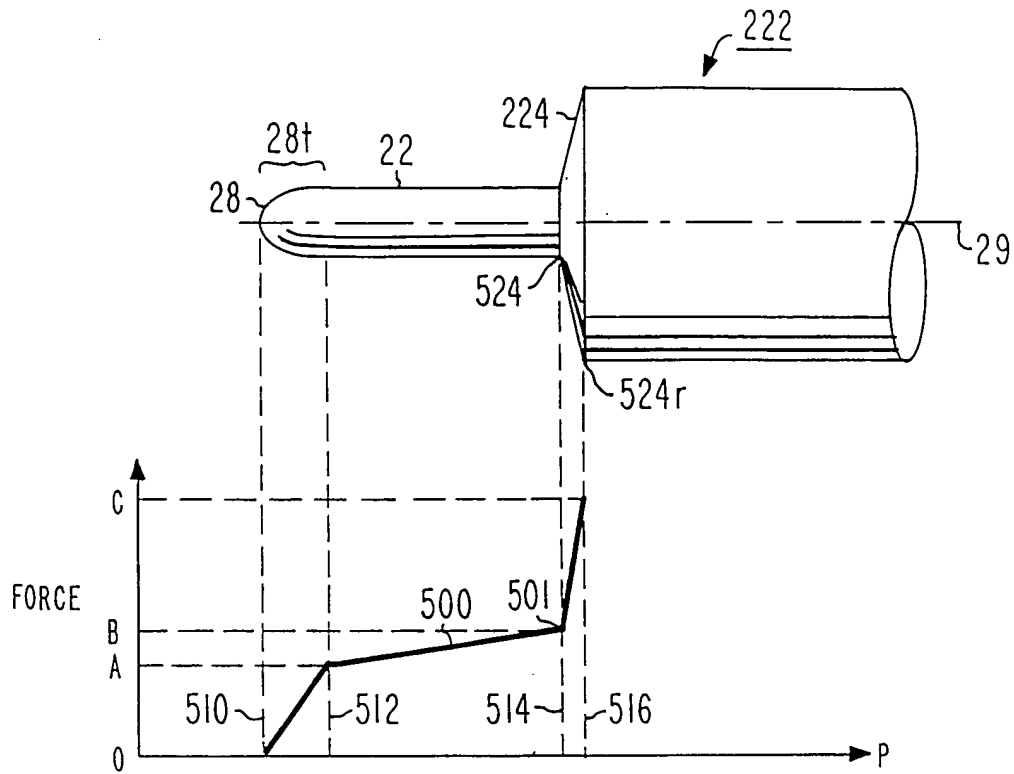


Fig. 5b

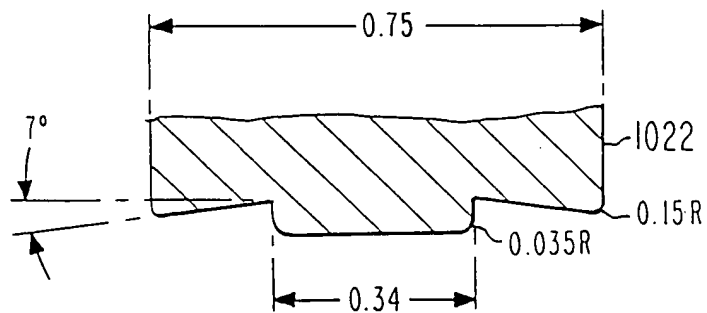


Fig. 10

Appendix G

Fig. 5a

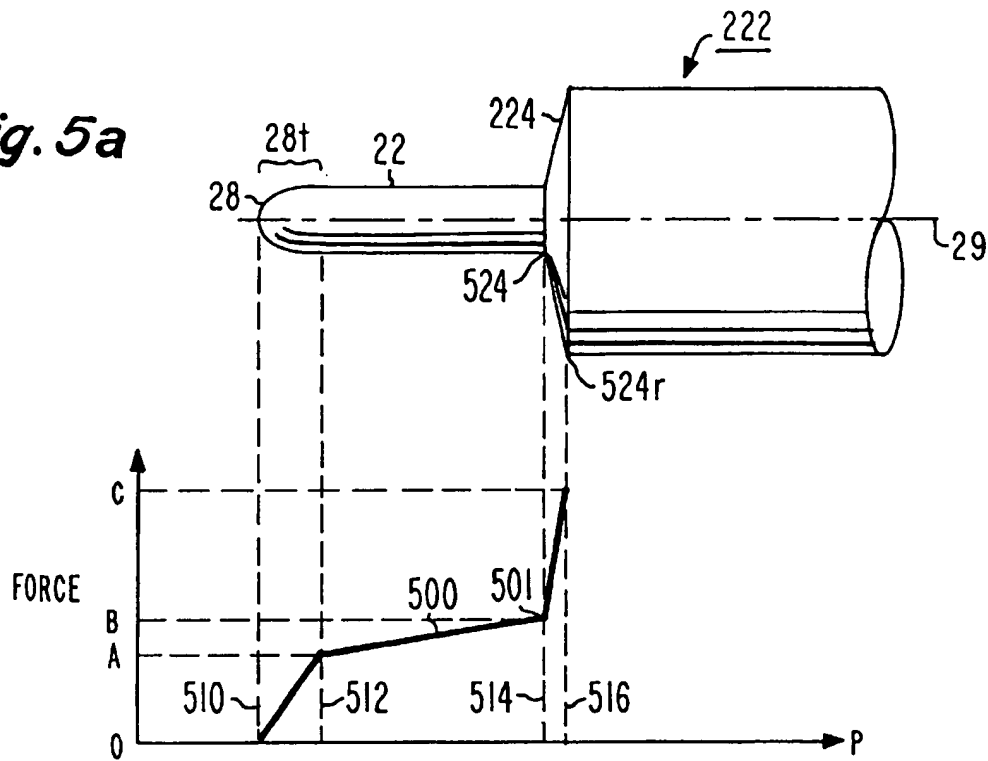


Fig. 5b

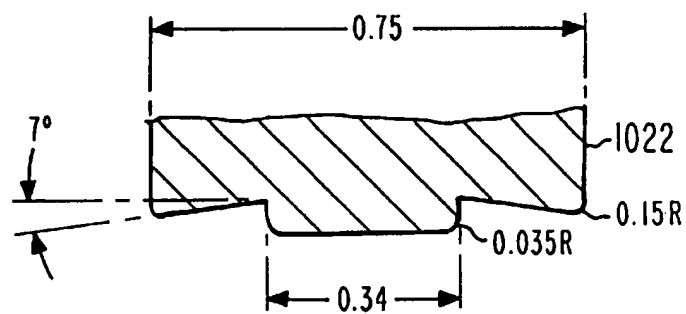


Fig. 10